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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,706	03/09/2004	Johanna Fraki	442-010769-US (D01)	2938
2512 PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824	7590 02/07/2007		EXAMINER ARAQUE JR, GERARDO	
			ART UNIT 3629	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	02/07/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/796,706

Applicant(s)

FRAKI ET AL.

Examiner

Gerardo Araque Jr.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 November 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 32-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 32 and 35 – 36, 38, 41 – 45, 48 – 49, 50, and 53 – 54** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sehr (US Patent 6,325,295 B1)** in view of **CNN.com**, hereinafter referred to as **Lovegety** (<http://www6.cnn.com/WORLD/asiapcf/9806/07/fringe/japan.lovegety/>).

3. In regard to **claims 32, 43, and 50**, as best understood by the examiner, **Sehr** discloses a mobile terminal for trading a digital collectible card associated with a user within a plurality of wireless mobile terminals, also used for trading digital collectible cards associate with other users, via a wireless communication transceiver (Column 3 Lines 12 – 22).

However, Sehr fails to teach a means for detecting whether a second mobile terminal device is available.

**CNN.com** discloses of a device, called the **Lovegety**, in which a first user would input information regarding their interests and dislikes. The device would then detect whether another Lovegety user (second user) is in the vicinity that shares the same interests of the first user. The device would then beep when they detect another Lovegety within a 15-foot range.

Therefore, it would have been obvious to one having ordinary skill in the art to modify Sehr with the teachings of Lovegety in order to have a user of the mobile terminal to have a means of detecting other users with the same mobile terminal and having similar interests, such as digital collectible cards.

4. In regard to **claims 35 and 44**, the combination of Sehr and Lovegety, as disclosed above, would inherently comprise a means of detecting whether the second mobile terminal has a digital collectable card trading capability.

5. In regard to **claims 36 and 45**, in further view of the combination of Sehr and Lovegety, as discussed above, Sehr discloses that the mobile terminals have selection features that would allow the user to look for particular items that the would be interested in, such as updating information of a particular card (Column 12 Lines 41 – 56).

6. In regard to **claims 38 and 48**, Sehr discloses that the cardholder must log-on to the appropriate database to request the rendering of a particular service, which would inherently require them to register to the system (Column 16 Lines 44 – 46) and confirming the identities of the cardholders (Column 18 Lines 11 – 13).

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7. In regards to **claim 41**, Sehr discloses a mobile terminal for trading a digital collectible card associated with a user within a plurality of wireless mobile terminals, also used for trading digital collectible cards associate with other users, via a wireless communication transceiver (Column 3 Lines 12 – 22). However, Sehr fails to teach a means for detecting whether a second mobile terminal device is available.

CNN.com discloses of a device, called the Lovegety, in which a first user would input information regarding their interests and dislikes. The device would then detect whether another Lovegety user (second user) is in the vicinity that shares the same interests of the first user. The device would then beep when they detect other Lovegetys within a 15-foot range.

Therefore, it would have been obvious to one having ordinary skill in the art to modify Sehr with the teachings of Lovegety in order to have a user of the mobile terminal to have a means of detecting other users with the same mobile terminal and having similar interests, such as digital collectible cards.

8. In regard to **claims 42 and 49**, in further view of the combination of Sehr and Lovegety, as discussed above, Lovegety, inherently includes, a means to exchange messages proposing a meeting.

9. **Claims 33 – 34, 37, 39 – 40, 46 – 47, and 51 – 52** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sehr (US Patent 6,325,295 B1)** in view of **CNN.com**, hereinafter referred to as **Lovegety**, (<http://www6.cnn.com/WORLD/asiapcf/9806/07/fringe/japan.lovegety/>) and in further view of **Newton** (Newton's Telecom Dictionary 20<sup>th</sup> Updated and Expanded Edition).

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10. In regard to **claims 33 – 34**, Sehr and CNN.com are discussed above, but fail to explicitly disclose using Bluetooth technology. Newton discloses that Bluetooth is, “A wireless protocol that is used to communicate from one device to another in a small area usually less than 30 feet.” Moreover, it is inherent that if a Bluetooth transceiver were to be used then it would be operable to communicate within an operational low power radio range.

Therefore, it would have been obvious to one having ordinary skill in the art to modify Sehr and Lovegety, in combination, to use a Bluetooth transceiver as a short-range wireless communication transceiver operable to communicate within an operational low power radio range.

11. In regard to **claims 37 and 46**, Newton discloses that a means of determining whether the first and second mobile terminals are in the same cell of a mobile communication network is old and well known (see Newton: Cell and CMTS).

12. In regard to **claims 39 – 40 and 47**, as best understood by the examiner, Lovegety discloses a means of determining whether another Lovegety user is within the vicinity. Inherently included, Lovegety uses short-range wireless communication.

### ***Response to Arguments***

13. Applicant's arguments filed 11/28/06 have been fully considered but they are not persuasive.

### **Double Patenting**

14. Rejection towards Double Patenting has been withdrawn.

### **Claim Objections**

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15. Claim objections toward claims 41, 32, and 50 have been withdrawn.

**Rejection under 35 USC 112, second paragraph**

16. Claim rejection under 35 USC 112, second paragraph, toward claim 52 has been withdrawn.

**Arguments made on Page 7 – 9**

17. Applicant argues that the combination of Sehr and Lovegety fails to disclose or suggest a means for detecting whether a second mobile terminal is available for trading the digital collectible cards and a short range wireless communication transceiver for directly communicating with the second mobile terminal. However, as already discussed above, Sehr discloses a method of trading digital cards and Lovegety discloses the use of mobile terminals that communicate and transmit data over short-range communication. It would have been obvious to one skilled in the art of short range communication and data transfer to have found it obvious to modify the teachings of Sehr to include short range communication devices in order to trade digital collectible cards since the users of the devices share a common interest, such as the users who use the Lovegety devices.

**Arguments made on Page 9**

18. Applicant argues that Lovegety fails to disclose or suggest detecting whether a second mobile terminal is available for trading data. However, Lovegety does, indeed, disclose detecting other Lovegetys within a 15-foot range (§ 6). Further still, Lovegety allows each user to seek out other Lovegetys that may be in the area, as well. In response to applicant's arguments against the references individually, one cannot show

nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

**Arguments made on Page 10**

19. Applicant argues several points that Newton fails to disclose. However, the examiner's purpose for using the reference was to illustrate that the communication system disclosed by the applicant is old and well known, such as Bluetooth, low power radio range, and etc. Further still, Lovegety further demonstrates its short-range capability usage as shown in the provided reference (¶ 6 – 7). In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

***Conclusion***

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number is (571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GA  
2/5/07



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